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8 **UNITED STATES BANKRUPTCY COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION**

10 In re  
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12 LILIAN GRACE PICKETT ABRENICA,  
13 Debtor.  
14

Case No. 10-72883

Chapter 13

**STIPULATION RE: AVOIDANCE OF  
LIEN**

15 This Stipulation is entered into by and between LILIAN GRACE PICKETT ABRENICA  
16 (hereinafter referred to as "Debtor"), by and through her attorney of record, Corrine Bielejeski; and  
17 JPMorgan Chase Bank, National Association (hereinafter referred to as "Creditor"), by and through  
18 its attorney of record Pite Duncan, LLP.

19 **RECITALS**

20 A. Debtor is the maker of a Note in favor of SCME Mortgage Bankers, Inc. (hereinafter  
21 "Lender") Creditor dated September 14, 2006, in the original principal amount of \$70,000.00  
22 ("Note"), which is secured by a Second Deed of Trust encumbering the real property at 4797 Fair  
23 Avenue, Oakland, California 94619 (the "Subject Property"). The Subject Property is more fully  
24 described in the Deed of Trust attached hereto as exhibit "A", which is incorporated herein by this  
25 reference. The Note and Second Deed of Trust are collectively referred to hereinafter as the  
26 "Subject Loan."

27 B. Subsequently, Lender's beneficial interest in the Deed of Trust was sold, assigned and  
28 transferred to Creditor. A true and correct copy of the Corporation Assignment of Deed of Trust

1 evidencing the Assignment of the Deed of Trust to Creditor is attached hereto as exhibit B and  
2 incorporated herein by reference.

3 C. On November 8, 2010, Debtor filed a voluntary petition under Chapter 13 of the  
4 Bankruptcy Code in the United States Bankruptcy Court for the Northern District of California, and  
5 was assigned Case No. 10-72883.

6 **FOR PURPOSES OF THE DEBTOR'S CHAPTER 13 PLAN ONLY, THE PARTIES**  
7 **HEREBY STIPULATE AND AGREE TO AN ORDER AS FOLLOWS:**

8 1. Creditor's claim shall be allowed as a non-priority general unsecured claim in the  
9 amount of \$71,878.35. Creditor shall file an amended Proof of Claim listing its claim as unsecured  
10 to be paid in accordance with the Debtor's Plan;

11 2. The avoidance of Creditor's Second Deed of Trust is contingent upon the Debtor's  
12 completion of her Chapter 13 plan and the Debtor's receipt of a Chapter 13 discharge;

13 3. Upon receipt of the Debtor's Chapter 13 discharge and completion of her Chapter 13  
14 Plan, this Stipulation and the Order to follow may be recorded by the Debtor with the Alameda  
15 County Recorder's Office;

16 4. Creditor shall retain its lien for the full amount due under the Subject Loan in the  
17 event of either the dismissal of the Debtor's Chapter 13 case or the conversion of the Debtor's  
18 Chapter 13 case to any other Chapter under the United States Bankruptcy Code;

19 5. In the event that the holder of the first lien on the Subject Property forecloses on its  
20 security interest and extinguishes Creditor's Second Deed of Trust prior to the Debtor's completion  
21 of her Chapter 13 Plan and receipt of a Chapter 13 discharge, Creditor's lien shall attach to the  
22 surplus proceeds of the foreclosure sale for the full amount of the Subject Loan balance at the time  
23 of the sale; and

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1           6.       Each party shall bear their own attorneys' fees and costs incurred in the present  
2 stipulation in bankruptcy case number 10-72883.

3 IT IS SO STIPULATED:

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Dated: 1/27/11

By:   
CORRINE BIELEJESKI  
Attorney for Debtor

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PITE DUNCAN, LLP

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Dated: 1/28/11

By: /s/ Erin L. Laney  
ERIN L. LANEY  
Attorney for Creditor

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